

**REMARKS****1. Status of Claims**

Claims 16-31 have been rejected in the Office Action of February 18, 2004. Claims 16-31 are pending. Claim 31 has been amended. Accordingly, applicant respectfully submits that all claims are in condition for allowance.

**2. Objection of drawings**

The Office Action objected to the drawings stating that Figure 3A was inaccurate and elements 36 and 719 in the specification were not labeled accordingly in the drawings. Applicant has submitted corrected Figures 3A, 3C and 7 herewith to overcome the objection. No new matter has been added. Accordingly, Applicant respectfully submits that all the drawings are in condition for allowance.

**3. Rejection under 35 U.S.C. § 112, second paragraph**

Claim 31 stands rejected under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In response to the Office Action's rejection, Applicant has amended claim 31 to recite "in one of the leg ends of the an elbow, the extension arm extending from the elbow and terminating in a free end . . ." and "removably secured to either one of the ~~posts~~ and post ~~or~~ the extension arm . . ." Accordingly, Applicant respectfully submits that Claim 31 is now in condition for allowance.

**4. Rejection under 35 U.S.C. § 103(a) as being obvious over British Patent 2,260,751 in view of German Publication 19,507,608, Kisner (U.S. Patent 4,961,604), Japanese Patent 6,296,649 and Stanley (U.S. Patent 6,203,233)**

Claims 16-31 stand rejected under 35 U.S.C. 103(a) as being obvious over British Patent 2,260,751 in view of German Publication 19,507,608, Kisner, Japanese Patent 6296649 and Stanley.

The three basic criteria for establishing a *prima facie* case of obviousness, set forth in MPEP § 706.02(j), are listed below:

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure.

*In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicant respectfully submits that the criteria mentioned above are not met because the British Reference, the German Publication, the Japanese Patent, Kisner or Stanley do not disclose or suggest all of the claimed elements of applicant's invention; therefore a *prima facie* case of obviousness has not been established.

Applicant's independent claim 16 recites "a man-rated device to which a person is removably secured, the device for use with an associated structure which the person intends to access, the device comprising: multiple, modular components dimensioned to be man-rated when assembled...." Applicant's independent claim 22 recites a "man-rated device to which a person is removably secured, the device for use with an associated structure which the person intends to access." Additionally, Applicant's independent claim 26 recites a "man-rated, confined space device." Furthermore, Applicant's independent claim 31, as amended, recites a "man-rated davit assembly for use with a confined space entry device with a base and means for hoisting loads."

Confined space entry products are required to be "man-rated" in order to comply with the Occupational Safety and Health Administration (OSHA) standards and the American National Standards Institute (ANSI) standards. (p.1, ll. 7-9) Thus, Applicant's invention conforms with all the governing standards as specified in 26 C.F.R. § 1910.66, the OSHA standards for powered platforms, manlifts, and vehicle-mounted work, in addition to all

applicable ANSI standards. For example, Applicant's invention conforms with OSHA strength requirements as set forth in Section 1910.66 App C(I)(10).

The Office Action states that the British Reference "discloses a substantially similar invalid hoist." However, it is submitted that the British Reference and other cited references relate primarily to systems which were developed to assist disabled or invalid individuals in some of their daily activities. As such, this non-analogous art does not teach or suggest, alone or in combination, a device which is man-rated in the sense claimed, namely, a device structured and configured to comply with applicable OSHA and ANSI regulations, including, but not limited to, OSHA strength requirements. The British Reference is not man-rated because it teaches a configuration for use in very limited care settings, whereas the claimed invention, by virtue of being man-rated, must be configured for use in any number of commercial or industrial applications by workers or employees, which applications include the need for such device to be robust enough for fall arrest during such applications. In fact, Section 1910.66 App C of the OSHA regulations states that the OSHA regulation "sets out the mandatory criteria for personal fall arrest systems used by all employees using powered platforms." (emphasis added). Furthermore, one skilled in the art would not be prompted to modify the British Reference in light of the remaining cited references to be man-rated as such a design is not required for its operation. By being man-rated in this sense, the device of claims 16-31 is patentably distinct and non-obvious from the cited references.

In addition, claims 16-31 are allowable over the cited references for the additional, independent reason that, in the context of a hoist for individuals rather than objects, the claims recite the use of "multiple, modular components" (claims 16, 22 and 26), or recite components "removably secured" to each other (claim 31). It is not obvious from cited references to create a hoist suitable for bearing individuals, as claimed, from modular components. The cited references, in combination, on the one hand, do not teach or suggest

modularizing the hoists used in conjunction with individuals (the British reference), and, on the other hand, do not suggest adapting the modular components (see Kisner) for use with individuals. As a result of forming a device for use by individuals, and having such device comprised of such modular components, Applicant's invention can be disassembled and reassembled with ease.

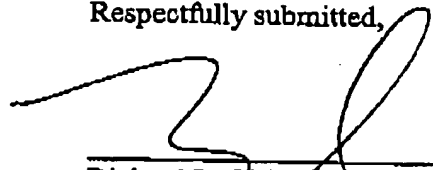
For the foregoing reasons Applicant submits that there is not suggestion in any of the references that their disclosures should or could be combined to render independent claims 16, 22, 26 and 31 obvious. Claims 17-21, 23-25 and 27-30 are dependent on independent claims 16, 22, 26 and 31 are allowable for the same reasons. Accordingly, Applicant respectfully requests that the rejection of Claims 16-31 be withdrawn.

#### CONCLUSION

It is respectfully submitted that all claims in the application are now allowable. Reconsideration and withdrawal of the pending rejections are respectfully requested. Early and favorable notice to this effect is earnestly solicited.

If the Examiner does not consider all of the pending claims allowable, the undersigned respectfully requests an interview with the Examiner to discuss the merits of the case.

Respectfully submitted,

  
Richard P. Gilly, Reg. No. 37,630  
Attorney for Applicant

Dated: May 18, 2004

Wolf, Block, Schorr and Solis-Cohen LLP  
1650 Arch Street, 22<sup>nd</sup> Floor  
Philadelphia, PA 19103-2097  
(215) 977-2704